## Instructions for Calculating Response Times After Service of a Document

The following instructions are provided to aid in calculating response times after service of a document under Fed. R. Civ. P. 5 in accordance with Fed. R. Civ. P. 6 and Local Rule CV-6.

- 1. Excluding the day of service, count forward the applicable number of days allowed for your document (i.e., 14 days for a motion response or 7 days for a reply or surreply), counting every calendar day, including Saturdays, Sundays and legal holidays.
- 2. If the last day falls on a Saturday, Sunday or legal holiday, move forward to the next day that is NOT a Saturday, Sunday or legal holiday.
- 3. THEN, add the three additional days allowed by Fed. R. Civ. P. 6(d) or Local Rule CV-6(a). This is the due date.

\*NOTE – The additional three days of Fed. R. Civ. P. 6(d) and Local Rule CV-6(a) only apply when a party must act within a specified time after <u>service</u>, and <u>service</u> is made under Rule 5. (Compare Fed. R. Civ. P. 59(b), requiring filing of a motion for new trial within 28 days after entry of judgment, not <u>service</u>.)

\*\*NOTE – Local Rule CV-5(d) provides that documents served after 5 PM Central Time are deemed served the following day. Consistent with Fed. R. Civ. P. 6(a)(1)(B), this means the following calendar day, including Saturdays, Sundays or legal holidays.

\*\*\*NOTE – These instructions are intended simply as an application aid and in no way alter or amend any applicable rule or legal decision interpreting those rules.

Example 1: A motion is served via CM/ECF on Monday, August 20<sup>th</sup> at 2 PM Central Time. Local Rule CV-7(e) allows 14 days to file a response. Excluding the day of service and then counting forward 14 calendar days, lands on Monday, September 3<sup>rd</sup>, which is Labor Day. Moving forward to the next day that is not a holiday, the response period otherwise expires on Tuesday, September 4<sup>th</sup>. You must then add three days by operation of Fed. R. Civ. P. 6(d) and Local Rule CV-6(a). The due date for the response therefore is Friday, September 7<sup>th</sup>.

Example 2: A response to a motion is served via CM/ECF on Friday, November 16th at 7 PM Central Time. Because served after 5 PM Central Time, under Local Rule CV-5(d), the response is deemed served the following day, Saturday November 17<sup>th</sup>. Local Rule CV-7(f) allows 7 days to file a reply. Excluding the day of service (Saturday, November 17<sup>th</sup>) and then counting forward 7 calendar days, the 7<sup>th</sup> day lands on Saturday, November 24<sup>th</sup>. Moving forward to the next day that is not a Saturday, Sunday or legal holiday, the response period otherwise expires on Monday, November 26<sup>th</sup>. You must then add three days by operation of Fed. R. Civ. P. 6(d) and Local Rule CV-6(a). The due date for the reply therefore is Thursday, November 29<sup>th</sup>.

Provided by Wesley Hill, Chair, Local Rules Advisory Committee (December 2012)